IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2000 OF 2006
IN
FIRST APPEAL NO.834 OF 2006

The United India Insurance Co. Ltd. ...Appellant
Vs.
Sugrabi Gulab Pathan & Ors. ...Respondents

Mr N. G. Ghotekar for the Appellant.
None for the Respondents.

CORAM : A. S. OKA, J.
DATE : APRIL 25, 2006.

P.C.:

1. Heard the learned Counsel appearing for the Appellant. The Appeal is directed against the judgment and award dated 31st December, 2005 passed by the learned Member of the Motor Accident Claims Tribunal under section 166 of the Motor Vehicles Act, 1988. In case of a fatal accident, compensation of Rs.01,13,000/- has been granted.

2. The main submission of the learned Counsel for the Appellant is that there was no valid policy of insurance on the date of accident. He submitted that mere entries in the R.T.O. record is no proof of the contract of the insurance. He submitted that relying only on entries in the R.T.O. record the Tribunal has held that the Applicant-Insurance Company is liable to

satisfy the award which is passed against the owner of the vehicle.

3. The Appeal is preferred only by the Applicant-Insurance Company. Even if Applicant-Insurance Company succeeds in the Appeal on the aforesaid ground, the result will be that the award against the Applicant-Insurance Company will be set aside. In that event, award against the insured will remain. Thus, even if the Applicant succeeds in the Appeal, the amount of compensation which may be paid by the Applicant can always be recovered by the Applicant from the insured.

4. Hence, no case is made out for grant of stay. Application for stay is rejected. It is made clear that the deposit of the amount by the Applicant and withdrawal thereof by the original claimants will be subject to final outcome of the Appeal.

JUDGE